



Findings - Conclusion

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beck

Thanks for the Draft Minutes and clarification.

Following is the second motion as approved:

Jon made the motion "I move to remand this matter to the CI

With this information, my recollection seems to agree with that of Brett –

Thanks to all ...

Regards,

jon

<BOA Minutes 10-29-2019.docx>



**beck albright** <lamoineceo@gmail.com>

to Thomas

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Findings - Conclusion - Moldawer v CEO

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## Findings - Conclusion - Moldawer v CEO

**Town of Lamoine** <town@lamoine-me.gov>

to Brett, Griff, Griff, Jay, Karen, Larissa, Michael, me, Stu, VanAmringe

Dear Appeals Board,

I met with Chairman Fenton this morning and he asked if I was starting point. As noted yesterday, prompt notification is required to the

Please look over the document, reply with suggested edits back to the town

On behalf of the Selectmen (and the entire town), thank you for the attention

Stu Marckoon, Adm. Asst. to the Selectmen



Lamoine Board of Appeals  
 100 Main Street  
 Lamoine, ME 04457  
 207.582.2121

Findings of Fact &amp; Recommendations of Law

Moldawer vs. Town of Lamoine Case File Number: 10291

October 29, 2019

## Summary

For Municipal Review of the proposed plan of a portion of the property of the Town of Lamoine, Maine, the Board of Appeals has reviewed the plan and the findings of fact and recommendations of law are as follows:



Draftfindings10291.

**Larissa Thomas** <lthomasme@gmail.com>

to Stu, Brett, Griff, Griff, Jay, Karen, Michael, me, Stu, Jon

Thank you for preparing this document, Stu.

My only recommended edits are in

Finding of Fact #8: please change "CEO's" to "CEO" and "finish" to "final"

Due to two complaints about the height of the house, with the help of John Holt, the True house was measured twice by Mr. Holt and me. Both times, it was about 4" under the 35" maximum requirement.

These measurement were done with a series of 6' pipes which we screwed together, lacking the tools and expertise to conduct the elevation survey from the original ground.

The Town of Lamoine's BLUO has a MUBEC code requirement to measure from average final grade and a definition of "Building Height" that may imply a measurement from original grade. Under either situation, the True house has not demonstrated that it violates the BLUO in any way.

A handwritten signature in black ink, appearing to read 'Rebecca Albright', with a large, stylized initial 'R' and a long, sweeping horizontal line extending to the right.

Rebecca Albright, CEO

TOWN OF LAMOINE  
OFFICE OF CODE ENFORCEMENT  
606 DOUGLAS HIGHWAY  
LAMOINE, MAINE 04605  
(207) 667-2242  
11/30/19

NOTICE OF RE-CONSIDERATION  
FOR THE APPEALS BOARD OF LAMOINE, MAINE

On October 29<sup>th</sup>, 2019 the Lamoine Board of Appeals met regarding the Moldower vs. CEO appeal and rendered the following motions:

#1. "I move to uphold the appeal in so far as the CEO did not correctly interpret the building height definition in the BLUO because she did not calculate the distance between the highest point on the structure to the original grade versus the highest point on the structure to the finished grade to determine if there was a difference."

#2. "I move to remand this matter to the CEO for reconsideration."

When Tom True applied for his building permit on 4/4/18 he made it very clear to me that he would be following the Maine Uniform Building and Energy Code (known as MUBEC) as required by Lamoine's Building and Land Use Ordinance Section 1.3.A. The aforementioned ordinance states that it, "applies to all construction in Lamoine."

MUBEC standards require that the height of all buildings be measured from average final grade. Mr. True told me on 4/4/18 that his building would be less than the maximum height of 35' based on measuring from the average final grade. I accepted this.

Mr. True submitted lengthy, detailed plans for his project. He followed them exactly.

The shoreside of the basement floor is at original grade as described in the True application. It is demonstrated in the permit application that the house is under the 35' maximum. The construction of the project was done in accordance with the application. The permit was never challenged by anyone.

Lamoine Board of Appeals (BOA) minutes for October 29, 2019

BOA members present: Griff Fenton, Jay Fowler, Larissa Thomas, Jon VanAmringe and Michael Jordan

Alternate member present: Brett Jones

CEO: Rebecca Albright

Attorney for the BOA: James Collier

Other attendees: Richard Arnold, Robert Harris, Mary Beth Harris, Brenda Moldawer, Jonathon Pottle, Marion Arnold, Alan Moldawer, David Goodrich, Mark Harris, John Clewley, Connie and Will Flynt, Tom and Kathy True, Bill and Joanne Harris, Kenneth Farkas, Jim and Kim Scott, Gordon and Barbara True and Mary Ellen Kimball

1: Meeting was called to order by Mr. Fenton at 7:15PM

2: Consideration of Minutes: Motion to approve minutes for 8/27/2019 made by Jay, second by Larissa Vote 5-0

3: Hearing - Moldawer v, CEO

- a. Ground rules for hearing - As previously voted by the BOA, this appeal will be conducted as an appellate review
- b. Receive oral testimony – Mr. Moldawer, Ms. Alright, Mr. Pottle, Mr. True and Mr. Holt all gave oral testimony on the provided written materials that were provided prior to the meeting. All parties were given the chance to ask questions, thru the chair, of each other
- c. Close Hearing
- d. Deliberations on appeal – The Board asked Mr. Collier a few questions.
- e. Possible decision on appeal – Larissa made the motion “I move to uphold the appeal in so far as the CEO did not correctly interpret the building height definition in the BLUO because she did not calculate the distant between the highest point on the structure to the original grade verses the highest point on the structure to the finished grade to determine if there was a difference.” Jay second the motion Vote 4-1 (Griff)

Jon made the motion “I move to remand this matter to the CEO for reconsideration.” Jay second Vote 4-0-1 (Griff abstained)

4: Other matters to come before the board - None

5: Next meeting date(s) – none set

6: Adjourn – 10:34 Larissa made the motion “To adjourn” Jay second Vote 5-0



Findings - Conclusion - Moldawer v CEO

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History



beck

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Findings - Conclusion - Moldawer v CEO



**Town of Lamoine**  
Dear Appeals Board, I met with Chairman Fenton this morning and he

**Larissa Thomas**  
Thank you for preparing this document, Stu. My only recommended e

**Brett Jones**  
Note to all: I just spoke with Stu regarding this draft. I mentioned that

**JON E. VAN AMRINGE**  
Stu ... My thanks as well for your efforts. I concur with Larissa's chan

**Michael Jordan**  
Hi all Attached is the minutes of the 10-29-2019 meeting Mike

**JON E. VAN AMRINGE**  
Mike ... Thanks for the Draft Minutes and clarification. Following is the



**beck albright** <lamoineceo@gmail.com>  
to Thomas



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to: Stu, Brett, Griff, Griff, Jay, Karen, Michael, me, Stu, Jon

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**Larissa Thomas** <lthomasme@gmail.com>

to Stu, Brett, Griff, Griff, Jay, Karen, Michael, me, Stu, Jon

Thank you for preparing this document, Stu.

My only recommended edits are in

Finding of Fact #8: please change "CEO's" to "CEO" and "finish" to "fina

Larissa Thomas

Lamoine Board of Appeals

[lthomasme@gmail.com](mailto:lthomasme@gmail.com)

c: 678.662.4108

h: 207.667.8155

**Brett Jones** brett@5foot2.com [via](mailto:brett@5foot2.com) g001.emailsrvr.com

to town, Griff, Griff, Jay, Karen, Larissa, Michael, me, Stu, VanAmringe

Note to all: I just spoke with Stu regarding this draft. I mentioned that my understanding is that we remanded this issue back to the CEO without any direction on next steps or actions. The boards determination was that the measurements were performed incorrectly, in that they did not take into consideration the original grade. The attorney specifically advised that we do not provide direction to the CEO.

I think Stu is presently waiting on the specific motion language from the attorney.

--

Brett Jones

...

[Message clipped] [View entire message](#)